



## ***Questions and Answers About The Kootenai River White Sturgeon and the Interim Final Critical Habitat Rule***

### ***What is the Kootenai River white sturgeon?***

White sturgeon of the genus *Acipenser* are believed to have evolved nearly 400 million years ago. The biggest freshwater fish in North America, the largest one on authenticated record weighed more than 1,300 pounds and was taken from the Fraser River in British Columbia, Canada. The Kootenai River population of white sturgeon is one of several land-locked populations found in the Pacific Northwest. Individuals from the land-locked populations are generally much smaller. From the Kootenai River population, there are no records from either the United States or Canada of sturgeon over 350 pounds. All sturgeon are distinguished by having a skeleton comprised of cartilage, a tube-like mouth and sensory barbells on the underside of the snout. The white sturgeon is distinguished from other species in its genus by the specific arrangement and number of scutes (bony plates) along its body. The fish have 11 to 14 bony plates on its back, 36 to 48 along its sides, and 9 to 12 on its belly.

### ***Where is the Kootenai River white sturgeon found?***

Kootenai River white sturgeon occur in Idaho, Montana and British Columbia, Canada, and are restricted to approximately 167.7 river miles of the Kootenai River from Kootenai Falls, Montana, below Libby Dam, Montana, downstream through Kootenay Lake to Corra Linn Dam at the outflow from Kootenay Lake in British Columbia. Approximately 45 percent of the species' range is located within British Columbia.

### ***What are the threats to the Kootenai River white sturgeon?***

The Kootenai River white sturgeon population is threatened by dam operations, flood control operations, poor water quality and loss of habitat. Modifications of the Kootenai River white sturgeon's habitat have changed the natural hydrology of the Kootenai River, altering white sturgeon spawning, egg incubation and rearing habitats and reducing overall biological productivity. These factors have contributed to reduced numbers of surviving young sturgeon for the past 31 years. The adult population has been decreasing at the rate of 9 percent per year.

The Kootenai River white sturgeon is listed as "Critically Imperiled" by the state of Montana and "Endangered" by the state of Idaho.

### ***How are these threats affecting the species?***

Recent findings indicate that the population now consists of an aging cohort of large, older fish. Population estimates have declined from approximately 7,000 white sturgeon in the late 1970s to 760 fish in 2000. At the current mortality rate of 9 percent per year, fewer than 500 adults remain in 2005 and there may be fewer than 50 remaining by 2030. Current data indicate that population abundance declines by about half every 7.4 years.

Sexual maturity of females is now believed to occur after age 30. Thereafter, females spawn at 4- to 6-year intervals. Annually, numbers of female spawners have declined from 270 per year in 1980 to about 77 in 2002. Fewer than 30 females will be spawning annually after year 2015.

### ***What action is the U.S. Fish and Wildlife Service taking?***

The Service is taking two actions:

- 1) We are issuing an interim final rule revising the 2001 critical habitat designation for the Kootenai River white sturgeon. The revision adds an additional 6.9 miles of the Kootenai River to the 11.2 miles of the river already designated as critical habitat for the species. The entire 18.1-mile critical habitat designation is within Boundary County, Idaho.
- 2) We are issuing a draft economic analysis, prepared by Northwest Economic Associates of Vancouver, Washington, that estimates the potential economic impacts associated with the entire critical habitat designation.

### ***Why is critical habitat being revised for the Kootenai River population of the white sturgeon?***

The U.S. Fish and Wildlife Service is revising its earlier critical habitat designation in response to a U.S. District Court in Montana ruling (May 25, 2005) in favor of a lawsuit filed by the Center for Biological Diversity (February 21, 2003). The ruling required that the Service sign a new critical habitat designation for Kootenai River white sturgeon by February 1, 2006. .

### ***Why is an interim final rule being published instead of a final rule?***

The interim final rule published in today's Federal Register is intended to comply with the court-ordered deadline. Due to time constraints and the amount of research and preparation involved in completing the critical habitat designation, the Service was unable to issue an earlier critical habitat proposal for public review in time to complete a final rule by the court's deadline. This interim rule takes the place of a proposal but differs in that it has regulatory effect, meaning that federal agencies must consult with the Service before authorizing or taking actions that could affect the Kootenai River white sturgeon's critical habitat.

A new final rule may be issued that differs from this interim rule.

***What are the estimated potential economic impacts?***

The analysis estimates the potential economic impacts to be \$370 million to \$790 million, at today's values, over the next 20 years. The vast majority of these impacts result from changes in flows to accommodate the sturgeon within the Kootenai River and related operations at Libby Dam, which is operated by the U.S. Army Corps of Engineers. These costs could occur even without a critical habitat designation because the Kootenai River white sturgeon is listed under the Endangered Species Act and federal agencies are required to conserve it.

***Will I be able to comment on the interim rule and the draft economic analysis?***

Yes. The Service is seeking public comment and technical information until April 10, 2006.

In addition, a public informational meeting and hearing are scheduled for March 16, 2006, at the Kootenai River Inn, 7169 Plaza St, in Bonners Ferry, Idaho. The informational meeting will run from 5 p.m. to 6:30 p.m., followed by the public hearing from 7 p.m. to 8:30 p.m. Formal public testimony will be accepted at the hearing and people who want to testify are encouraged to provide a written copy of their testimony in addition to their oral statement.

***What type of information is the Service seeking?***

To ensure that this action is as accurate and as effective as possible, the Service is seeking information concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of Kootenai sturgeon habitat; whether areas included in the designation that are occupied and do not contain the features that are essential to the conservation of the species; or whether areas included as occupied are not occupied and why. Specific information is also sought on areas not occupied at the time of listing which are essential to the conservation of the species and why those areas should be considered essential to the conservation of the species.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on the critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the designation and, in particular, any impacts on small entities;

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(6) Any information on why the canyon reach (see map) should or should not be designated as critical habitat; and,

(7) In its May 25, 2005 order, discussed below, the court focused on the effect of substrate on ultimate breeding success and this interim rule reflects the court's focus. The best available science, however, demonstrates that breeding success is dependent on a number of variables in addition to substrate. As discussed below, water temperature, depth, and velocity all appear to play a role in triggering spawning. Thus, a combination of appropriate substrates and water conditions appear necessary for significant breeding success.

- Do all of the areas designated contain all of the PCEs required for successful breeding and recruitment (i.e., both the triggering of spawning by the adults and the survival of eggs and larval sturgeon)?
- If so, do any of the habitat features in these areas require special management?
- In particular years, there has been, albeit inadequate, recruitment. Please provide comment on any perceived or known bases for that recruitment and how it might inform our designation of this critical habitat.
- What is the geographic origin of those recruited sturgeon?

#### ***Where can I send comments and information?***

Written comments on the interim final rule should be submitted by April 10, 2006 to: Supervisor, U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, 11103 E. Montgomery, Spokane, Washington 99206, or by facsimile to 509-891-6748. Comments may also be sent by electronic mail to FW1SPOK\_crithab\_stur@R1.fws.gov in ASCII file format and avoid the use of special characters or any form of encryption. Please also include "**Attn: Kootenai River sturgeon**" in the e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Upper Columbia Fish and Wildlife Office at 509-891-6839.

#### ***What is critical habitat?***

Critical habitat is a term in the Endangered Species Act (ESA). It identifies geographic areas that contain features essential for the conservation of a threatened or endangered species and may require special management considerations. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. It does not allow the government or public access to private lands. A critical habitat designation does not impose restrictions on private lands unless federal funds, permits or activities are involved. Federal agencies that undertake, fund or permit activities that may affect critical habitat are required to consult with the Service to ensure such actions do not adversely modify or destroy critical habitat.

Critical habitat is identified using the best available scientific and commercial information about

the physical and biological needs of the species. These needs may include:

- Space for individual and population growth, and for normal behavior
- Food, water, light, air, minerals, or other nutritional or physiological needs
- Cover or shelter
- Sites for breeding, reproduction, and rearing of offspring
- Habitat that is protected from disturbance or is representative of the historical geographic and ecological distribution of a species

***What are the habitat requirements (Primary Constituent Elements) for the Kootenai River white sturgeon?***

Based on current knowledge of life history, biology and ecology of the species and the requirements of habitat to sustain the life history functions of the species, the Service has determined that the Kootenai sturgeon's habitat requirements are:

(1) During the spawning season of May into July, a flow regime that periodically (not necessarily annually) produces flood flows capable of producing intermittent depths of at least 5 meters, and mean water column velocities of at least 3.3 ft/s (1.0 m/s) throughout, but not uniformly within the braided reach.

(2) Stable, temperatures of roughly 50 degrees F in May into July with no sudden drops in temperature exceeding 3.6 degrees F at Bonners Ferry during the spawning season and water temperatures suitable for natural rates of development of embryos.

(3) Presence of approximately 5 miles of continuous submerged rocky substrates for normal free embryo redistribution behavior and downstream movement.

(4) A flow regime that limits sediment deposition and maintains appropriate rocky substrate for sturgeon egg adhesion, incubation, escape cover, and free embryo development.

***Will the revised designation of critical habitat for the sturgeon in the Kootenai River near Bonners Ferry affect use of my personal property?***

No. The lands bordering the designated stream miles are owned by the state of Idaho. But more importantly, a critical habitat designation only affects land uses that are authorized, funded or carried out by a federal agency.

***Will a critical habitat designation for the Kootenai River population of the white sturgeon affect recreation?***

A small, 4 percent loss of visitor-use days of Lake Koocanusa due to water releases at Libby Dam for sturgeon and bull trout may be offset by the increased recreational use on the Kootenai River below the dam resulting from instream flows recommended for bull trout conservation.

***Will the designation of critical habitat for sturgeon in any way affect my flowage/seepage easement under Section 56 of Public Law 93-251?***

No. The designation of critical habitat for sturgeon will not affect the releases of claims previously agreed upon under Section 56 of Public Law 93-251.

PL 63-251 was a unique opportunity for landowners in the Bonners Ferry area to be compensated for consequential damages such as seepage-related crop damage and erosion of river banks and levees from the authorized range of operations for Libby Dam. The designation of critical habitat will not change the authorized range of operations of Libby Dam.

***What about lands where regional Habitat Conservation Plans (HCP's) are being developed or will be developed in the future?***

The designation of critical habitat should not impede ongoing habitat conservation planning efforts in northern Idaho. The long-term conservation of white sturgeon is being addressed as these plans are developed.

***How can I get more information?***

If you would like additional information please contact: Supervisor, Upper Columbia Fish and Wildlife Office, U.S. Fish and Wildlife Service, 11103 East Montgomery Drive, Spokane, Washington, 99206, telephone 509-891-6839.